

General Instructions

Who Must File

A partnership doing business in North Dakota or having a source of income in North Dakota must file Form 58, North Dakota Partnership Return Of Income, if required to file Federal Form 1065 for the same year. A copy of the federal partnership return must be attached to the North Dakota partnership return.

Limited liability company (LLC). North Dakota law allows the formation of a limited liability company (LLC). An LLC formed under the laws of North Dakota or another state shall be treated the same way for North Dakota income tax purposes as it is treated for federal income tax purposes. If an LLC is treated like a partnership for federal income tax purposes, the LLC is subject to this partnership return filing requirement.

Penalty. If a partnership fails to file a North Dakota partnership return after notice to file is given by the Tax Commissioner, a minimum penalty of \$500 may be assessed.

Time And Place For Filing

Form 58 must be filed on or before the 15th day of the 4th month following the close of the taxable year. For this purpose, the taxable year for North Dakota purposes is the same as that for federal purposes. The return must be filed with the Office of State Tax Commissioner, State Capitol, 600 East Boulevard Avenue, Bismarck, North Dakota 58505-0599.

Signature

Form 58 must be signed by a general partner (or a member in the case of an LLC) or an authorized representative of the partnership. If a receiver, a trustee in bankruptcy, or an assignee is in control of the property or business of the partnership, such person must sign the return.

Information At The Source Returns

Every partnership doing business in North Dakota which is required to file Federal Form 1099 or W-2 generally must also file one with the Office of State Tax Commissioner. A 1099 reporting interest, dividends, pensions, or annuities does not have to be filed unless North Dakota income tax is withheld from the payment, in which case the partnership must comply with the North Dakota information return filing requirements and must remit any amount withheld in the same manner as an employer withholding North Dakota income tax from wages. For more information, obtain the *Income Tax Guideline: Information At The Source Return Requirements And Procedures* and the *Income Tax Guideline: Income Tax Withholding*.

Tax Incentives For Investment In Certain Businesses

If a partnership invests in a North Dakota venture capital corporation under North Dakota Century Code ch. 10-30.1, the North Dakota Small Business Investment Company under N.D.C.C. ch. 10-30.2, a North Dakota certified nonprofit development corporation under N.D.C.C. § 10-33-124, or a qualified business under N.D.C.C. ch. 57-38.5, the partners may be entitled to an income tax credit. A deduction may also be allowed for an investment made under N.D.C.C. ch. 10-30.1. Contact the Office of State Tax Commissioner for more information.

Reporting Of Income Or Loss

100% North Dakota partnership. A partnership that carries on its business entirely within North Dakota must report all of its income or loss to North Dakota. In this situation, complete lines 1 through 9, skip lines 10 through 14, and enter the amount from line 9 on line 15, page 1, Form 58.

Multistate partnership. A partnership that carries on its business within and without North Dakota must allocate and apportion its income under N.D.C.C. ch. 57-38.1 (Uniform Division of Income Tax Act). A partnership subject to these provisions must complete Schedule B on page 2 of Form 58. However, if a multistate partnership has only resident individuals, estates and/or trusts as partners, Schedule B does not have to be completed; instead, complete lines 1 through 9, skip lines 10 through 14, and enter the amount from line 9 on line 15, page 1, Form 58.

Nonresident Partners

The distributive share of income or loss of a nonresident partner reported on Schedule A of Form 58 is income or loss from a North Dakota source. This income or loss must be reported to North Dakota by the nonresident partner on the appropriate North Dakota income tax return.

Composite return. A composite filing method is allowed as an alternative method of filing for nonresident individuals who are partners in a partnership operating in North Dakota. Under this method, one individual income tax return, referred to as a "composite return," may be filed by two or more of the partners. For details, obtain the *Income Tax Guideline: Composite Filing Method*.

Assistance

For forms or assistance, call (701)328-3450. The speech or hearing impaired may call the TDD/TTY numbers (701)328-2778 or 1-800-453-8950 (toll free in North Dakota). Or write to: Office of State Tax Commissioner, State Capitol, 600 East Boulevard Avenue, Bismarck, North Dakota 58505-0599.

Specific Instructions For Page 1

Line 4. Enter the following on this line:

- Except for North Dakota and its political subdivisions, interest from state and local government obligations that is exempt from federal income tax. Include the portion of dividends received from a regulated investment company (mutual fund) that is attributable to the mutual fund's investment in the obligations of other states and their political subdivisions.
- Amount of ACRS depreciation deducted on the federal partnership return for the current taxable year on assets placed in service during the period from January 1, 1981 through the end of the 1982 taxable year. Do not include in this adjustment the amount of ACRS depreciation on assets under a safe harbor lease that is not recognized under North Dakota tax law — see **Safe harbor leases** below.

(See the instructions to line 7 for a corresponding depreciation subtract adjustment.)

- **Safe harbor leases.** Section 168(f)(8) of the Internal Revenue Code (covering safe harbor leases) was not adopted by North Dakota where the minimum investment by the lessor is less than one hundred percent (100%).

If a partnership entered a safe harbor lease where the minimum investment by the lessor is less than one hundred percent (100%), and if the partnership is the buyer/lessor, enter on this line the total amount of (1) interest expense, (2) amortization expense, (3) acquisition costs, (4) losses, and (5) depreciation included in the computation of federal partnership income or loss.

If the partnership is the seller/lessee, enter on this line the total amount of (1) sale proceeds, (2) rent expense, (3) amortization expense, and (4) acquisition costs included in the computation of federal partnership income or loss.

Line 6. Enter interest from U.S. obligations and other securities exempt from state income tax under federal law. Include the portion of dividends received from a regulated investment company (mutual fund) that is attributable to the mutual fund's investment in the same kinds of securities. Unless already identified on the federal income tax return, attach a schedule specifically identifying the securities or the mutual fund, or both. A copy of the year-end statement from a mutual fund or a broker will satisfy this identification requirement if it contains the requisite information.

Line 7. Enter the following on this line:

- Amount of depreciation allowed for the current taxable year on ACRS recovery property placed in service from January 1, 1981

through the end of the 1982 taxable year using methods allowed under the Internal Revenue Code as amended through December 31, 1980. Do not include in this adjustment any depreciation on assets under a safe harbor lease that is not recognized under North Dakota tax law — see **Safe harbor leases** below.

(See the instructions to line 4 for a corresponding depreciation addback adjustment.)

- **Safe harbor leases.** Section 168(f)(8) of the Internal Revenue Code (covering safe harbor leases) was not adopted by North Dakota where the minimum investment by the lessor is less than one hundred percent (100%).

If a partnership entered a safe harbor lease where the minimum investment by the lessor is less than one hundred percent (100%), and if the partnership is the buyer/lessor, enter on this line the total amount of rental income included in the computations of federal partnership income or loss.

If the partnership is the seller/lessee, enter on this line the total amount of (1) interest income included in federal taxable income and (2) the amount of depreciation not included in the computation of federal partnership income or loss. For this purpose, ACRS recovery property placed in service from January 1, 1981 through the end of the 1982 tax year must be depreciated using methods allowed under the Internal Revenue Code as amended through December 31, 1980.

Note: Lines 10 through 14 do not apply to partnerships that conduct their trade or business entirely within North Dakota, or to partnerships having only resident partners. In these cases, enter the amount from line 9 on line 15.

Line 10. (Multistate partnerships only) Enter on this line nonbusiness income or losses that are allocable, i.e., not apportionable, under N.D.C.C. ch. 57-38.1 (Uniform Division of Income Tax Act). Include all allocable items whether they are allocable to North Dakota or outside North Dakota. Expenses related to allocable income must be deducted in computing the amount entered on this line. Expenses must be attributed to allocable income based on a method which fairly distributes all expenses to the partnership's various kinds of income. **Attach a schedule identifying each item of allocable income or loss, the related expenses, and an explanation of the basis for allocating each item.**

Line 14. (Multistate partnerships only) Enter on this line nonbusiness income or losses (net of related expenses) included on line 10 that are allocable to North Dakota under N.D.C.C. ch. 57-38.1 (Uniform Division of Income Tax Act). **Attach a schedule identifying each item of North Dakota allocable income or loss, the related expenses, and an explanation of the basis for allocating each item.**